

Opinion filed February 24, 2017



In The

Eleventh Court of Appeals

No. 11-17-00032-CR

KEVIN SCOTT, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 104th District Court
Taylor County, Texas
Trial Court Cause No. 18616-B**

MEMORANDUM OPINION

Kevin Scott has filed a pro se notice of appeal on motion to recuse. Appellant's motion to recuse related to a postconviction habeas corpus that was filed in the trial court. We dismiss the appeal.

The clerk of this court wrote Appellant on February 6, 2017, and informed him that it did not appear that the order denying the motion to recuse was an appealable order. We requested that Appellant respond and show grounds to

continue the appeal. We have received a response from Appellant in which he explains that he “is appealing the order of Judge Charles Chapman,” an order in which the judge denied Appellant’s motion to recuse. First, we note that an order denying a motion to recuse is not a final, appealable order; it may be reviewed only in an appeal from a final judgment. *Green v. State*, 374 S.W.3d 434, 445 (Tex. Crim. App. 2012). An appeal of the decision to deny a motion to recuse, standing alone, would be improper. *Id.* Second, we note that the order from which Appellant attempts to appeal appears to relate to an Article 11.07 writ of habeas corpus that was filed by Appellant. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2015). Article 11.07 vests complete jurisdiction over postconviction relief from final felony convictions in the Texas Court of Criminal Appeals. *See id.* §§ 3, 5; *Bd. of Pardons & Paroles ex rel. Keene v. Court of Appeals for the Eighth Dist.*, 910 S.W.2d 481, 484 (Tex. Crim. App. 1995); *Hoang v. State*, 872 S.W.2d 694, 697 (Tex. Crim. App. 1993) (only Court of Criminal Appeals has authority to grant postconviction relief from final felony convictions). There is no role for the courts of appeals in the procedure under Article 11.07. *See* CRIM. PROC. art. 11.07, § 3; *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding). For the above reasons, we have no jurisdiction to entertain this appeal.

Consequently, the appeal is dismissed for want of jurisdiction.

PER CURIAM

February 24, 2017

Do not publish. *See* TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
Willson, J., and Bailey, J.